

OLC 75- 2088
27 August 1975

NOTE TO: Mr. Warner, General Counsel
FROM : Office of Legislative Counsel

This office has been plagued by a recurring question: To what extent, and under what circumstances, does the Administrative Procedure Act of 1946, as amended, (5 U.S.C. §§ 551-559), apply to this Agency. Obviously, the Freedom of Information Act and the Privacy Act sections do apply, but the coverage of the remaining sections is more ambiguous. We would like to obtain from the Department of Justice, an opinion on this question.

In this Congress, as in past Congresses, we have been faced with numerous bills amending the Administrative Procedure Act in various respects. Each bill triggers extensive and time-consuming research into the Act by both OLC and OGC. To date, no firm conclusions have been reached. Faced, as we are, with an unusually high number of bills in this area, with an activist Chairman of the Senate Judiciary Subcommittee on Administrative Procedures (Senator Edward M. Kennedy) who seems inclined to press the applicability of the APA to its very limits, and with a period of inter-Agency review of the various statutory authorities affecting Agency operations, this office believes it would be appropriate to approach the Department of Justice for an opinion on this question. We are of the view that this could best be accomplished by asking for the Department's concurrence in an Agency opinion which stakes out our best position, namely that only the Freedom of Information and Privacy sections of the Act apply to CIA. Accordingly, we recommend that OGC should solicit the opinion from the Department of Justice although this office is prepared to do so if you conclude that this would be appropriate.

Acting Legislative Counsel

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Original - Addressee
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OLC:WPB:cmw (typed 26 August 1975)

JOURNAL

OFFICE OF LEGISLATIVE COUNSEL

Wednesday - 20 August 1975

CIA INTERNAL USE ONLY

1. (Unclassified - WPB) LEGISLATION Bob Carlstrom, OMB, who has been working on clearing our various reports on criminal justice information bills, called to say that he had some comments from Justice Department on our report which he would be forwarding to me.

2. (Unclassified - DFM) LEGISLATION Called George Gilbert, OMB, to report that the Agency agreed with the Administration's position in the State Department's letter to the Senate Foreign Relations Committee on S. 1341, to establish a 200-mile Marine Pollution Control Zone. The letter had been reviewed by [redacted] of OGCR.

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3. (Unclassified - DFM) CONSTITUENT Dropped off at the office of Representative Norman Mineta (D., Calif.), for Dan Murphy, a listing of people suing the Agency for alleged illegal domestic activities. OGC provided the list.

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5. (Unclassified - DFM) ADMINISTRATIVE - DELIVERIES Dropped off at the office of Representative Lucien Nedzi (D., Mich.), for Cindy Szady, a copy of Mr. Colby's interview with Martin Agronsky, dated 19 August 1975.

6. (Unclassified - DFM) ADMINISTRATIVE - DELIVERIES Dropped off at the office of Chairman Jack Brooks (D., Texas), Subcommittee on Legislation and National Security, Committee on Government Operations, a letter from Mr. Colby concerning the Agency's hiring of special counsel for the congressional hearings.

7. (Unclassified - DFM) ADMINISTRATIVE - DELIVERIES Delivered to Bob Boyer, staff member of the House Committee on International Relations, a confidential memo prepared by [redacted] on an alleged memorandum prepared in the Office of the President of the Philippines on Philippine-American Base Agreement.

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Executive Registry
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OLC 75-2035

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

August 19, 1975

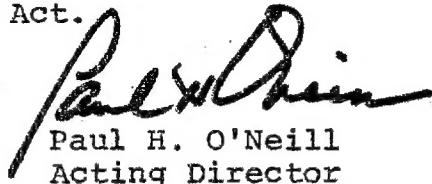
MEMORANDUM TO THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

Subject: Review of Initial System Notice and Agency Rules
Under the Privacy Act of 1974

Section 6 of P.L. 93-579 assigns OMB responsibility for continuing oversight of agencies' implementation of Section 3 of the Act. To assure that the agencies' rules and the system notice's required by that Section are in general compliance with the Act, we are planning to conduct an evaluation of their content when published in the Federal Register. We believe that agency participation in such a review will have the mutual benefit of assuring a higher level of consistency in implementing privacy requirements within the executive branch. We also believe this review offers an opportunity for agency staff to gain an understanding and perspective on the Privacy Act which will aid you in carrying out your continuing responsibilities.

To provide the staffing for this one time review, selected agencies will be asked to provide attorneys and clerical personnel to an interagency task force. OMB staff will be following up with the selected agencies through the privacy official whom you identified in response to Director Lynn's May 6, 1975 memorandum. The task force should operate from August until October 31th. Should you wish to volunteer personnel for this review, please contact Mr. Fernando Oaxaca, OMB Associate Director for Management and Operations.

We look forward to your continued support and cooperation in coordinating the executive branch's response to the requirements of the Privacy Act.


Paul H. O'Neill
Acting Director

OLC 75-1927
Executive Registry
75-7931

Legislation

12 August 1975

MEMORANDUM FOR: The Director

SUBJECT: Proposed Legislation Regarding CIA

During the Martin Agronsky interview of President Ford last week it sounded as if the President had proposed legislation in hand with respect to the CIA. In light of that, I suggested to Phil Buchen that it might be helpful if we got a chance to look at any proposed legislation prior to the implementation by the Agency of the Rockefeller Commission Recommendations. Phil thought it was a good idea but made it clear that they unfortunately did not have any proposed legislation in hand. He said that we would get copies of any proposals for comment at an early date.

[Redacted]
Special Counsel to the Director

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